

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

NICOLE R.,  
*Appellant,*

*v.*

DEPARTMENT OF CHILD SAFETY AND A.P.,  
*Appellees.*

No. 2 CA-JV 2019-0048  
Filed September 23, 2019

---

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);  
Ariz. R. P. Juv. Ct. 103(G).

---

Appeal from the Superior Court in Gila County  
No. S0400JD201800054  
The Honorable Timothy M. Wright, Judge

**AFFIRMED**

---

COUNSEL

Emily Danies, Tucson  
*Counsel for Appellant*

Mark Brnovich, Arizona Attorney General  
By Michelle R. Nimmo, Assistant Attorney General, Tucson  
*Counsel for Appellee Department of Child Safety*

NICOLE R. v. DEP'T OF CHILD SAFETY  
Decision of the Court

---

**MEMORANDUM DECISION**

Presiding Judge Staring authored the decision of the Court, in which Chief Judge Vásquez and Judge Brearcliffe concurred.

---

STARING, Presiding Judge:

¶1 Nicole R. appeals from the juvenile court's order finding her son, A.P. (born August 2018), dependent. She argues the court's order is not supported by sufficient evidence. We disagree and affirm.

¶2 A.P. was born substance-exposed and was hospitalized for more than a month immediately after his birth due to withdrawals induced by Nicole's use of methamphetamine and heroin throughout most of her pregnancy. After A.P. was discharged from the hospital, the Department of Child Safety filed a dependency petition asserting he was a dependent child due to Nicole's substance abuse and mental-health issues, and her inability to meet his basic needs. After a contested hearing in March 2019, the court granted the petition. This appeal followed.

¶3 A dependent child includes one who "has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising [necessary] care and control." A.R.S. § 8-201(15)(a)(i). The allegations in a dependency petition must be proven by a preponderance of the evidence. A.R.S. § 8-844(C)(1). We review a dependency adjudication for an abuse of discretion, "deferring to the juvenile court's ability to weigh and analyze the evidence." *Shella H. v. Dep't of Child Safety*, 239 Ariz. 47, ¶ 13 (App. 2016). Accordingly, "[w]e will only disturb a dependency adjudication if no reasonable evidence supports it." *Id.* "[W]e do not re-weigh the evidence on review." *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 12 (App. 2002). And, we view the evidence in the light most favorable to affirming the court's findings. *Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, ¶ 21 (App. 2005).

¶4 Nicole argues there was insufficient evidence to support the court's dependency finding, citing her recent sobriety, engagement with services, and her claim to have found new housing.<sup>1</sup> But she largely

---

<sup>1</sup>Nicole also asserts her ongoing mental-health issues present no risk to her son. But she cites no record evidence to support this argument, and

NICOLE R. v. DEP'T OF CHILD SAFETY  
Decision of the Court

disregards other evidence, including that she is unemployed, and therefore unable to support her child, had not consistently attended counseling, and had failed to follow up on recommended mental-health treatment. Notably, despite evidence that her living situation with her mother was volatile and posed a risk to her for relapse,<sup>2</sup> Nicole insisted at the hearing that her living situation posed no danger to her or to A.P. In sum, Nicole's argument on appeal is a request that we reweigh the evidence. We will not do so. *See Jesus M.*, 203 Ariz. 278, ¶ 12.

¶5 We affirm the juvenile court's order determining A.P. is a dependent child.

---

we do not address it. *See* Ariz. R. P. Juv. Ct. 106(A) (requiring compliance with civil appellate rules governing content of brief); Ariz. R. Civ. App. P. 13(a)(7)(A) (argument must contain citation to record); *see also Reeck v. Mendoza*, 232 Ariz. 299, ¶ 13 (App. 2013) (appellate court will not consider evidence not presented to trial court).

<sup>2</sup>Nicole also seems to place great weight on her testimony that she had found new living arrangements. But she does not dispute that she lived with her mother at the time of the hearing and the court's ruling, nor that she acknowledged she was unable to maintain her own place to live.